

Amendment and Response Under 37 C.F.R. §1.116 - Expedited Examining Procedure

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Confirmation No.: 9447

Filed: 30 March 2001

For: WEB HAVING DISCRETE STEM REGIONS

Remarks

The Final Office Action dated 20 May 2002 has been received and reviewed. Claims 21, 31-37, 40, 48, and 53-55 having been amended, the pending claims remain claims 21-55. Reconsideration and withdrawal of the rejections are respectfully requested.

Claim Amendments

Applicants are presenting herewith proposed amendments to place the claims in condition for allowance pursuant to 37 C.F.R. § 1.116. Entry and consideration of the amendments are, therefore, respectfully requested.

With respect to amended claims 31-37 and 53-55, Applicants submit that the amendments are grammatical in nature only and no new matter is added by these corrections. These amendments address the objections set forth in the Office Action.

With respect to claims 21, 40 and 48, Applicants submit that the amendments are supported by the application as filed. For example, support for the amendments may be found in Figures 1-4 and Examples 1-13.

The 35 U.S.C. §102 Rejections

Claims 21-23, 29, 30, 48, 49, 51, and 52 were rejected under 35 U.S.C. §102(b) as being anticipated by Reich et al. (U.S. Patent No. 5,465,660). Applicants respectfully traverse this rejection.

The rejection is based on the assumption that Reich et al. disclose "a plurality of discrete polymeric regions." Applicants note, however, that Reich et al. does not teach that the hook fasteners 32 or the hook fastener strips 36 are polymeric regions. Rather, Reich et al. is silent as to the construction of those components.

Applicants also traverse the assertion that the broadest reasonable interpretation of the term "fused" as recited in independent claims 21 and 48 includes "ultrasonic welding, thermal fusing, an adhesive bond, or stitches." The use of the "broadest reasonable interpretation" is not

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the broadest possible interpretation. Rather, the broadest reasonable interpretation must be "consistent with the specification." *See, e.g.,* MPEP § 2111, p. 2100-46 (August 2001). Furthermore, "the words of a claim must be given their plain meaning. In other words, they must be read as they would be interpreted by those of ordinary skill in the art." *Id.* at p. 2100-48. In view of Applicants' use of the term "fused" (and its variants) in connection with the present application, Applicants submit that the proposed interpretation is far broader than the interpretation that one of skill in the art would give the term "fused" upon reading the specification.

In addition, the Office Action includes the assertion that "fused" as recited in claims 21 and 48 includes "to stitch by applying heat and pressure with or without the use of adhesive." The rejection fails, however, to identify any location in the Reich et al. that discloses "stitching" to attach the hook fasteners 32 or the fastener strips 36 to the wrap 26. As a result, Applicants respectfully submit that the assertion is not supported by Reich et al., and, further, the assertion does not support the proposed rejection of claims 21-23, 29, 30, 48, 49, 51, and 52.

In view of the above, Applicants respectfully submit that claims 21-23, 29, 30, 48, 49, 51, and 52 are not anticipated by Reich et al. Reconsideration and withdrawal of the rejection are, therefore, respectfully requested.

Claims 21, 22, 24-29, 31, 33, 34, 38, and 39 were rejected under 35 U.S.C. §102(e) as being anticipated by Shepard et al. (U.S. Patent No. 6,205,623). Applicants respectfully traverse this rejection.

At the outset, Applicants do not admit that Shepard et al. is prior art to present application and expressly reserve the right to remove Shepard et al. as a reference at a later date in this or any other related applications. In the interest of moving the present application towards allowance, however, Applicants will address the substance of the rejection.

Independent claim 21 recites a web with a first major side. Further, claim 21 has been amended to recite that the web is "coextensive with the web construction."

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Applicants respectfully submit that Shepard et al. does not disclose the claimed construction. Rather, Shepard et al. disclose discrete strips of hook material interposed between discrete strips of loop material, with the strips of hook material and strips of loop material being connected to each other along their edges. As a result, Shepard et al. does not disclose "a web coextensive with the web construction" with a first major side having a plurality of discrete polymeric regions fused thereto.

As to the dependent claims subject to this rejection, Applicants traverse any assertions with respect to the teachings of Shepard et al. regarding a "web," noting that Shepard et al. does not disclose a web as that term is used in claims 21, 22, 24-29, 31, 33, 34, 38, and 39.

For at least the above reasons, Applicants respectfully submit that claims 21, 22, 24-29, 31, 33, 34, 38, and 39 are patentable over Shepard et al. Reconsideration and withdrawal of this rejection are respectfully requested.

The 35 U.S.C. §103 Rejections

Claims 23, 40, 42-53, and 55 were rejected under 35 U.S.C. §103(a) as being unpatentable over Shepard et al. (U.S. Patent No. 6,205,623), as applied above, and further in view of Guay (U.S. Patent No. 4,714,096). Applicants respectfully traverse this rejection.

Applicants note that the asserted modification of Shepard et al. with the teachings of Guay does not reach the claimed invention.

Applicants note that Shepard et al. does not disclose "a web coextensive with the web construction" as recited in each of the independent claims (it being noted that claim 23 depends from claim 21 which is not subject to this rejection). Furthermore, mere substitution of the loop material of Shepard et al. with the elastic fabric of Guay as asserted in the Office Action does not cure the deficiencies of Shepard et al. with respect to claims 23, 40, 42-53, and 55. In other words, the mere substitution of the loop material of Guay for the loop material of Shepard et al. does not provide a web that is "coextensive with the web construction" as recited in each of independent claims 21, 40, and 48.

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With respect to dependent claims 44 and 52, Applicants respectfully submit that providing the plurality of discrete polymeric regions as "a plurality of patches on the first major side of the web" is not "an obvious matter of design choice" as asserted in the Office Action. The teachings of the cited references are limited to alternating strips of hook material and loop material. The Office Action fails to identify any teaching or suggestion in either reference as to why or how one of skill in the art would adapt the disclosed processes to provide "patches on the first major side of the web" as recited in claims 44 and 52. As a result, Applicants respectfully submit that a *prima facie* case of obviousness has not been established with respect to claims 44 and 52.

For at least the above reasons, Applicants respectfully submit that claims 23, 40, 42-53, and 55 are patentable over the combination of Shepard et al. with Guay. Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 30 and 35-37 were rejected under 35 U.S.C. §103(a) as being unpatentable over Shepard et al. (U.S. Patent No. 6,205,623). Applicants traverse this rejection.

With respect to claim 30, Applicants respectfully submit that providing the plurality of discrete polymeric regions as "a plurality of patches on the first major side of the web" is not "an obvious matter of design choice" as asserted in the Office Action. The teachings of Shepard et al. are limited to alternating strips of hook material and loop material. The Office Action fails to identify any teaching or suggestion in either reference as to why or how one of skill in the art would adapt the disclosed processes to provide "patches on the first major side of the web" as recited in claim 30. As a result, Applicants respectfully submit that a *prima facie* case of obviousness has not been established with respect to claim 30.

With respect to claims 35-37, Applicants note that all of these claims depend from claim 21. As discussed above with respect to the anticipation rejection of claim 21 over Shepard et al., Applicants note that Shepard et al. does not disclose the claimed construction. The present obviousness rejection of claims 35-37 does not cure the deficiencies of the rejection of claim 21.

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over Shepard et al. For at least these reasons, Applicants submit that claims 35-37 are patentable over Shepard et al.

Furthermore, Applicants submit that the percentages and distances between discrete polymeric regions recited in claims 35-37 may provide advantages in use that are not "an obvious matter of design choice."

In view of the above, Applicants submit that claims 30 and 35-37 are patentable over Shepard et al. Reconsideration and withdrawal of this rejection are respectfully requested.

Claims 31-33, 40-42 and 44 were rejected under 35 U.S.C. §103(a) as being unpatentable over Reich et al. (U.S. Patent No. 5,456,660), as applied above, and further in view of Murasaki (U.S. Patent No. 5,643,651). Applicants traverse this rejection.

Applicants note that rejected claims 31-33 depend from independent claim 21. Applicants further note that Reich et al. fails to disclose all of the elements of claim 21 (as discussed above in connection with anticipation rejection of claim 21 over Reich et al.). The addition of Murasaki does not remedy the deficiencies of Reich et al. with respect to claim 21, and, therefore, claims 31-33. As a result, Applicants respectfully submit that claims 31-33 are patentable over Reich et al. in view of Murasaki.

With respect to claims 40-42 and 44, Applicants note Reich et al. has not been applied to claims 40-42 and 44 above, leaving the basis for the rejection of claims 40-42 and 44 over Reich et al. in view of Murasaki unclear. As a result, Applicants submit that the Office Action does not present a proper *prima facie* case of obviousness with respect to claims 40-42 and 44.

For the above reasons, Applicants respectfully submit that claims 31-33, 40-42 and 44 are patentable over Reich et al. in view of Murasaki. Reconsideration and withdrawal of the rejection are, therefore, respectfully requested.

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Claim 32 was rejected under 35 U.S.C. §103(a) as being unpatentable over Shepard et al. (U.S. Patent No. 6,205,623), as applied above, and further in view of Murasaki (U.S. Patent No. 5,643,651). Applicants traverse this rejection.

Applicants note that rejected claim 32 depends from independent claim 21. Applicants further note that Reich et al. fails to disclose the elements of claim 21 and that the addition of Murasaki does not remedy the deficiencies of Reich et al. For at least these reasons, Applicants respectfully submit that claim 32 are patentable over Reich et al. in view of Murasaki.

Claims 41 and 54 were rejected under 35 U.S.C. §103(a) as being unpatentable over Shepard et al. (U.S. Patent No. 6,205,623), in view of Guay (U.S. Patent No. 4,714,096), as applied above, and further in view of Murasaki (U.S. Patent No. 5,643,651).

Applicants note that rejected claims 41 and 54 depend, respectively, from independent claims 40 and 48. With respect to the combination of Shepard et al. in view of Guay as applied to independent claims 40 and 48, Applicants note that the asserted modification of Shepard et al. with the teachings of Guay does not reach the claimed invention as discussed above in connection with the rejection of claims 23, 40, 42-53, and 55 under 35 U.S.C. §103(a) over Shepard et al. in view of Guay.

For at least the above reasons, Applicants respectfully submit that claims 41 and 54 are patentable over Shepard et al. in view of Guay and further in view of Murasaki. Reconsideration and withdrawal of the rejection are, therefore, respectfully requested.

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Summary

It is respectfully submitted that the pending claims 21-55 are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted for
Scott J. TUMAN et al.

By

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CERTIFICATE UNDER 37 CFR §1.8:

The undersigned hereby certifies that this paper is being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to Assistant Commissioner for Patents, Attn: Box AF, Washington, D.C. 20231, on this 24th day of July, 2002, at 12:54 p.m. (Central Time). 1:13 p.m.

By:

Name: Rachel Gayle Gebhardt - Gebhardt

APPENDIX A - SPECIFICATION/CLAIM AMENDMENTS
INCLUDING NOTATIONS TO INDICATE CHANGES MADE

Serial No.: 09/822,651

Docket No.: 54407US002

Amendments to the following are indicated by underlining what has been added and bracketing what has been deleted. Additionally, all amendments have been marked in bold typeface.

In the Claims

For convenience, all pending claims are shown below.

21. (AMENDED) A web construction comprising:
a web coextensive with the web construction;
a plurality of discrete polymeric regions fused to a first major side of the web; and
a plurality of stems extending from each discrete polymeric region of the plurality of polymeric regions.
22. A web construction according to claim 21, wherein the web comprises loop structures adapted to lock with the plurality of stems.
23. A web construction according to claim 21, wherein the web comprises an elastic web.
24. A web construction according to claim 21, wherein the web comprises fibrous material.
25. A web construction according to claim 21, wherein the web comprises a porous web.
26. A web construction according to claim 21, wherein the web comprises woven web material.
27. A web construction according to claim 21, wherein the web comprises nonwoven web material.

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28. A web construction according to claim 21, wherein the web comprises knit web material.
29. A web construction according to claim 21, wherein the plurality of discrete regions comprises a plurality of stripes extending over the first major side of the web.
30. A web construction according to claim 21, wherein the plurality of discrete regions comprises a plurality of patches on the first major side of the web.
31. (AMENDED) A web construction according to claim 21, wherein the web defines a localized plane, and wherein the plurality of stems is [are] oriented at an angle that is not normal to the localized plane.
32. (AMENDED) A web construction according to claim 21, wherein the web defines a localized plane, and wherein the plurality of stems is [are] oriented at an angle that is not normal to the localized plane, and further wherein the plurality of stems is [are] angled in multiple directions.
33. (AMENDED) A web construction according to claim 21, wherein the web defines a localized plane, and wherein the plurality of stems is [are] oriented at an angle that is not normal to the localized plane, and further wherein the plurality of stems is [are] angled in the same direction.
34. (AMENDED) A web construction according to claim 21, wherein the plurality of discrete regions covers between 1 and 99 percent of the first major side of the web.

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35. (AMENDED) A web construction according to claim 21, wherein the plurality of discrete regions covers between 20 and 80 percent of the first major side of the web.
36. (AMENDED) A web construction according to claim 21, wherein the plurality of discrete regions covers between 5 and 25 percent of the first major side of the web.
37. (AMENDED) A web construction according to claim 21, wherein the plurality of discrete regions is [are] separated from one another by an average of approximately 0.05 and 30 centimeters.
38. A web construction according to claim 21, wherein each stem of the plurality of stems comprises a mushroom head.
39. A web construction according to claim 21, wherein each stem of the plurality of stems comprises a hook.
40. (AMENDED) A web construction comprising:
an elastic web coextensive with the web construction;
a plurality of discrete polymeric regions fused to a first major side of the web; and
a plurality of stems extending from each discrete polymeric region of the plurality of polymeric regions, wherein the web defines a localized plane, and wherein the plurality of stems are oriented at an angle that is not normal to the localized plane.
41. A web construction according to claim 40, wherein the web defines a localized plane, and wherein the plurality of stems are oriented at an angle that is not normal to the localized plane, and further wherein the plurality of stems are angled in multiple directions.

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42. A web construction according to claim 40, wherein the web defines a localized plane, and wherein the plurality of stems are oriented at an angle that is not normal to the localized plane, and further wherein the plurality of stems are angled in the same direction.

43. A web construction according to claim 40, wherein the plurality of discrete regions comprises a plurality of stripes extending over the first major side of the web.

44. A web construction according to claim 40, wherein the plurality of discrete regions comprises a plurality of patches on the first major side of the web.

45. A web construction according to claim 40, wherein the web comprises loop structures adapted to lock with the plurality of stems.

46. A web construction according to claim 40, wherein the web comprises fibrous material.

47. A web construction according to claim 40, wherein the web comprises a porous web.

48. (AMENDED) A web construction comprising:
an elastic web comprising loop structures, wherein the elastic web is coextensive with the web construction;

a plurality of discrete polymeric regions fused to a first major side of the web; and
a plurality of stems extending from each discrete polymeric region of the plurality of polymeric regions, wherein the plurality of stems are adapted to lock with the loop structures of the web.

49. A web construction according to claim 48, wherein the web comprises loop structures adapted to lock with the plurality of stems.

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50. A web construction according to claim 48, wherein the web comprises fibrous material.
51. A web construction according to claim 48, wherein the plurality of discrete regions comprises a plurality of stripes extending over the first major side of the web.
52. A web construction according to claim 48, wherein the plurality of discrete regions comprises a plurality of patches on the first major side of the web.
53. (AMENDED) A web construction according to claim 48, wherein the web defines a localized plane, and wherein the plurality of stems is [are] oriented at an angle that is not normal to the localized plane.
54. (AMENDED) A web construction according to claim 48, wherein the web defines a localized plane, and wherein the plurality of stems is [are] oriented at an angle that is not normal to the localized plane, and further wherein the plurality of stems is [are] angled in multiple directions.
55. (AMENDED) A web construction according to claim 48, wherein the web defines a localized plane, and wherein the plurality of stems is [are] oriented at an angle that is not normal to the localized plane, and further wherein the plurality of stems is [are] angled in the same direction.